THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 21570 of 2005

O r d e r:

The petitioner is a District Manager with the respondents-Food Corporation of India. He is presently worked at Khammam. He is due to retire in the month of May, 2006. While so, it is his case that the respondents with a view to accommodate one Mr. Jayaprakash, issued proceedings dated 30.09.2005, transferring him from Khammam to Hyderabad. It is this transfer order, which the petitioner has called in question in this writ petition.

The learned counsel for the petitioner submits that the petitioner is due to retire in the month of May, 2006, and even though he has not completed three years of service at the present station, which is a condition precedent for transfer, yet respondents with a view to accommodate one Mr. Jayaprakash, have issued the impugned proceedings transferring him from Khammam to Hyderabad, which is illegal and arbitrary and in violation of Guideline No.17 of the Guideline framed by the Corporation in relation to transfers, and communicated vide proceedings dated 21.11.2002. He thus prayed for appropriate directions.

The learned Standing Counsel for the respondents-Corporation submitted that transfer is an incidence of service and the transfer has been transferred on administrative exigencies. He submitted that the guidelines issued by the respondents for structuring the discretion in matters of transfers, relied upon by the petitioner, are not legally enforceable. He submitted that the post held by the petitioner is a sensitive post, and due to adverse reports received against the petitioner, to facilitate a fair enquiry, it has been decided to shift him to a non-sensitive post, and therefore, he has been transferred from Khammam to Hyderabad.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Food Corporation of India. The learned Standing Counsel for the respondents produced the Vigilance file.

No doubt, the petitioner is due to retire in the month of May, 2006, but that by itself is not a ground for the respondents not to transfer him from one place to another, and more so when it is the specific case of the petitioner that he has been transferred due to administrative exigencies. A perusal of the Vigilance file produced by the learned Standing Counsel, would disclose complaints were received against the petitioner and others, and in the enquiry, *prima facie* involvement was found. Due to adverse reports, which in the enquiry, revealed *prima facie* involvement of the petitioner, the respondents, with a view to facilitate a fair enquiry, decided to shift the petitioner from the present sensitive post to a non-sensitive post, and in

pursuance of such decision, they have transferred the petitioner from Khammam to a non-sensitive post in Hyderabad, and no exception can be taken thereto.

Though the petitioner contends that having regard to Guideline No. 17 of the Guidelines framed by the Corporation in relation to transfers, communicated vide proceedings dated 21.11.2002, he being at the fag end of his service, should be retained at the place of his choice, the fact remains, they are merely guidelines issued to structure the discretion of the public authority in the matter of transfers, and they in no way, confer on the petitioner any legally enforceable right.

Merely because the respondents posted one Mr. Jayaprakash to Khammam and shifted the petitioner from the said place to Hyderabad, it does not mean that the respondents have transferred the petitioner from Khammam to Hyderabad only to accommodate Mr. Jayaprakah. As consequent upon the transfer of the petitioner from Khammam to Hyderabad, the post at Khammam would be vacant, the respondents keeping in view the administrative exigencies, instead of keeping the post vacant, have decided to transfer one Mr. Jayaprakah from Srikakulam to Khammam, and fill the post occupied by him, by another person from Raichur. The transfer of the petitioner having been effected by the respondents on grounds of administrative exigencies and to facilitate a fair enquiry into the adverse reports received against the petitioner, no interference is called for therewith, and more so when it is settled law that transfer being an incidence of service, normally the Courts shall not interfere with such transfer orders, even if made without following the transfer guidelines, unless it is shown that the transfer orders are fraught with *mala fides* or have been issued in violation of the statutory provisions (See **Union of India v. S.L. Abbas**)**.** The grounds on which the petitioner has been transferred, by no stretch of imagination, can be said to fraught with *mala fides*, warranting with its interference by this Court.

There is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 28th April, 2006.

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